CLEAN WATER ACTION

April 8, 2019

Chair Karl Longley
Central Valley Regional Water Quality Control Board
1685 E Street
Fresno, CA 93706

Comment Letter: Valley Water Management Company – McKittrick 1 & 1-3

Dear Chair Longley and Board Members

We write to urge the immediate closure of the McKittrick 1 & 1-3 disposal facility operated by Valley Water Management Company (VWMC). We support the adoption of the Tentative Cease and Desist Order (CDO), with an amendment to require immediate cessation of operations and remediation. McKittrick 1 & 1-3 has been out of compliance with state laws and waste discharge requirements (WDR) and polluting groundwater for decades. It uses an outdated and inappropriate method of produced water disposal. Decades of unlawful behavior demonstrate that Valley is incapable of operating in compliance with WDRs at this site. The CDO staff report specifies a number of reasons that this facility must cease discharging immediately, including that the General Orders for oilfield discharge would be inappropriate, and that this facility has caused groundwater pollution. The findings in VWMC's own monitoring program corroborate these findings. It is unacceptable that one of the largest disposal pit facilities in the state discharges up to 115,000 barrels (4.8 million gallons) of highly contaminated waste, every single day in violation of state laws and individual permits.

**To fulfill its mandate to protect water quality, the Central Valley Regional Water Quality Control Board (Regional Board) must order VWMC to immediately cease discharge and implement a remediation plan.**

Clean Water Action identified problems at this facility in two reports, published in 2014[1] and 2016.[2] Several findings support the closure of McKittrick 1 & 1-3. Constructed in the 1950s, the McKittrick 1 & 1-3 pits first were required to comply with WDRs in 1969, when the Regional Board first permitted the facility. The initial WDR did not require any discharge

[1] Grinberg, Andrew, "In the Pits" Clean Water Action/Clean Water Fund. November 2014 http://www.cleanwateraction.org/sites/default/files/docs/publications/In%20the%20Pits.pdf
[2] Grinberg, Andrew "Still in the Pits" Clean Water Action/Clean Water Fund. March 2016 http://www.cleanwateraction.org/sites/default/files/docs/publications/Still%20In%20the%20Pits%20-%20March%202016.pdf

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characterization or groundwater monitoring.[3] Beginning in 1990,[4] Central Valley Board staff has inspected these pits annually.[5] Over the last 28 years, inspectors have repeatedly acknowledged that the pits did not meet waste discharge requirements under the Tulare Lake Basin Plan. Beginning with the 1990 inspection, the Board "planned to add monitoring and reporting requirements in the future."[6] Inspections in 1990, 1993, and 1997 all reference the need to update the WDR to comply with the Tulare Lake Basin Plan, but the facility has remained out of compliance to this day.

Beginning in 1997, VWMC began submitting water quality data on the contents of the discharged fluids to the Regional Board. Test results have consistently shown levels exceeding Basin Plan standards for total dissolved solids (TDS), chlorides and boron, and the presence of BTEX compounds (benzene, toluene, ethylbenzene, xylene) in the discharged fluids.[7] Beginning in 2002, at the request of the Regional Board, VWMC began implementing a groundwater-monitoring program, installing three test wells down-gradient of the facility.[8] In 2003 (the first year with available monitoring data), migration of wastewater was detected in the two test wells closest to the sumps.[9] Since that time, the plume of wastewater has spread significantly, and now extends more than two miles from the facility and contamination has severely impaired the ability of groundwater wells in the area designated for MUN and AGR to continue to meet these beneficial uses.[10]

In numerous historical inspection reports, Regional Board staff noted that WDRs were out of date, and that VWMC did not have a discharge plan that complied with the Tulare Lake Basin Plan. Regional Board and VWMC test results have consistently shown levels of contaminants that should trigger the requirement of a permit to ensure that discharge "will not substantially affect water quality nor cause a violation of water quality objectives."[11]

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[3] Central Valley Regional Water Quality Control Board "Waste Discharge Requirements for Valley Waste Disposal Company Belgian Anticline, Cymric and McKittrick Oil Fields Kern County" Resolution No. 69-199 Adopted 2/14/69

[4] Earliest recorded inspection in records provided by Regional Board via Public Records Act request to Clean Water Action

[5] Documentation of McKittrick 1 & 1-3 inspections. Available at: http://cleanwateraction.org/files/publications/WDR%20and%20Inspections%20pages%201%20-%20116.pdf and http://cleanwateraction.org/files/publications/WDR%20and%20Inspections%20pages%20117%20-%20234.pdf

[6] Central Valley Regional Water Quality Control 1990 inspection. Available at: http://cleanwateraction.org/files/publications/WDR%20and%20Inspections%20pages%201%20-%20116.pdf

[7] Ibid.

[8] "Hydrogeologic Characterization Workplan, Valley Waste Disposal Company, Cymric Field" Prepared for Valley Waste Disposal Company by Geomega. Aug 1, 2001. Available at: http://cleanwateraction.org/files/publications/2001%20Hydro%20Characterization%20and%20Workplan.pdf

[9] "Hydrogeologic Characterization Report Valley Waste Disposal Company Cymric Field Study Area" Prepared for Valley Waste Disposal Company by Geomega Oct 17, 2003. Available at: http://cleanwateraction.org/files/publications/2003%20Hydro%20Characterization%20pages%201-100.pdf and http://cleanwateraction.org/files/publications/2003%20Hydro%20Characterization%20pages%20101-200.pdf

[10] Staff Report, Valley Water Management Company, McKittrick 1 & 1-3 Facility. Central Valley Regional Water Quality Control Board. p. 12

[11] California Regional Water Quality Control Board Central Valley Region "Water Quality Control Plan for the Tulare Lake Basin Second Edition Revised January 2004 (with Approved Amendments) Plan" p. IV-15

When Clean Water Action began scrutinizing this facility, there was significant evidence of non-compliance with state law and WDRs. In the last five years, additional evidence now also confirms impacts to groundwater with beneficial uses including ongoing degradation, as documented by the Regional Board. While, the Regional Board should have taken regulatory actions to prevent contamination from ever occurring years ago, there is now heightened urgency for the Regional Board to act as VWMC's discharges are polluting groundwater with beneficial uses. Failure to prevent this condition in the past is not an excuse to continue to allow it to persist.

The CDO proposes an unacceptably slow compliance schedule. To protect groundwater VWMC must immediately halt of any discharge at McKittrick 1 & 1-3. The proposed timeline allows VWMC to implement already approved work plans by October 1, 2019, submit a closure plan by January 1, 2020, and cease discharging by July 1, 2020. Even this slow compliance schedule leaves the door open for VWMC to make the case that its discharges are in compliance – a possibility that is clearly impossible after decades of failing to do just that. VWMC's monitoring program has already demonstrated groundwater pollution, justifying the need to shut down the facility and start cleaning it up now. Instead of allowing more than a year to keep polluting, the CDO should order an immediate halt to operations and swift development of a remediation plan. There is no compelling reason why VWMC should continue discharging while it develops the remediation plan. On the other hand, more discharge will only push the plume of contamination further downgradient, exacerbating the problem.

For a number of years, Clean Water Action, our members, and allies have urged a prohibition on the discharge of produced water to unlined pits for disposal. The McKittrick 1 & 1-3 provides a clear example of why the Regional Board must prohibit this practice. The long history of the Regional Board's inability to enforce water quality protections and the resulting contamination that is now detectable some 60 years after the start of operations should act as a warning sign to regulators, and a call to action to prohibit this inappropriate disposal method. The conventional wisdom that there is no high quality groundwater on the west side of the San Joaquin Valley should be rejected, as this case has demonstrated that waste discharges in this part of the state can have long term consequences on groundwater. As much of California is caught in perpetual cycles that include severe drought in drought, and the Southern San Joaquin in severe drought, regulators must take a more protective approach to protecting groundwater resources. The Regional Board can help do their part by taking swift action to stop pollution from facilities like McKittrick 1 & 1-3.

Sincerely,

Andrew Grinberg
National Campaigns Special Projects Manager